

**SECOND MODIFICATION TO THE ORIGINALLY PROPOSED TEXT ARE INDICATED IN *ITALICS* WITH UNDERLINE/STRIKETHROUGH NOTATION**

**§ 2000. Rules of Construction.**

(23) ~~Chairman~~ Chairperson. The administrative head of the board who is designated by the Governor pursuant to Penal Code section 5075.

(49) Full Board. The commissioners performing the function of meeting en banc in either public or executive session. At least five commissioners shall participate when performing this function and no action shall be valid unless it is concurred in by a majority vote of those present.

**ALL SUCCEEDING DEFINITIONS TO BE RENUMBERED CONSECUTIVELY.**

**§ 2041. Review of Proposed Decisions.**

(a) General. Board decisions, except decisions made at recommendation documentation hearings and decisions which do not require a hearing, are proposed decisions and shall be reviewed prior to their effective date in accordance with the following procedures. Except as provided in subdivision (j), an order for a new hearing vacates a proposed decision. Any other board decision may be reviewed after its effective date as provided in these rules or as specified by the ~~chief deputy commissioner~~ chairperson.

(b) Review of Decisions ~~at from~~ Revocation Hearings. ~~Proposed Decisions made at from~~ revocation hearings shall be ~~implemented immediately by staff from P&CSD and the board~~ effective on the date signed by the panel. P&CSD shall immediately implement the decision. ~~Within 10 days of the hearing, the decision shall be reviewed by the decision review unit the chief deputy commissioner or a designee. Within 20 days of the hearing, the chief deputy commissioner may: (1) affirm the proposed decision, (ii) order a new hearing, or (iii) modify the decision without a new hearing. No decision shall be modified without a new hearing if the modification would be adverse to the parolee's interest. A decision may be reviewed within 10 days by the decision review unit.~~ If the ~~decision review unit chief deputy commissioner~~ disapproves the decision and orders a new hearing, the parolee shall be notified and, if necessary, the parole agent shall place a hold following the criteria of specified in Section §§ 2600-2602. If the ~~decision review unit chief deputy commissioner~~ modifies the decision without a new hearing, ~~the parole agent staff from P&CSD and the board~~ shall implement the modified decision immediately. ~~Decisions subject to this subdivision shall be given an effective date not later than 20 days from the hearing, unless expedited under subdivision (j).~~

(c) Decision Review Unit. The decisions specified in this section shall be submitted to the decision review unit upon completion of the hearing. The decision review unit shall be composed of at least one deputy commissioner as designated by the chairman chairperson except as otherwise provided in this section. ~~Decisions approved by the decision review unit, except those affecting life prisoners, shall be given an effective date~~

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~~if one is not otherwise provided and released no later than 15 days from the date of the hearing, unless expedited under subdivision (f).~~

(d) Review of Decisions from Mentally Disordered Offender Hearings. Proposed decisions made at Mentally Disordered Offender Certification, Placement and Annual Review Hearings shall be implemented immediately by staff from the Department of Mental Health, P&CSD and the board. The decision shall be reviewed by the chief deputy commissioner or a designee. Within 20 days of the hearing, the chief deputy commissioner may: (i) affirm the proposed decision, (ii) order a new hearing, or (iii) modify the decision without a new hearing. No decision shall be modified without a new hearing if the modification would be adverse to the interests of the parolee or patient. If the chief deputy commissioner disapproves the decision and orders a new hearing, the parolee or patient shall be notified and, if necessary, the parole agent shall place a hold following the criteria specified in §§ 2600-2602. If the chief deputy commissioner modifies the decision without a new hearing, staff from the Department of Mental Health, P&CSD and the board shall implement the modified decision immediately. Decisions subject to this subdivision shall be given an effective date not later than 20 days from the hearing, unless expedited under subdivision (k).

~~—(d) Disapproved Decisions:~~

~~—(1) The decision review unit may refer proposed decisions concerning ISL parole, ISL rescission and any parole revocation to the reconsideration panel. The reconsideration panel shall, within a maximum period of twenty days from the date of the hearing, (i) affirm the original proposed decision, (ii) order a new hearing or (iii) modify the decision without a new hearing. No decision shall be modified without a new hearing if the modification would be adverse to the prisoner's or parolee's interest. An order for a new hearing vacates the proposed decision.~~

~~—(2) The decision review unit may refer proposed decisions concerning parole for life prisoners (hearings and rehearings) and extended terms to the counsel. The chief counsel may approve the decision and release it or refer it to a board review committee. The board review committee shall, within a maximum period of 60 days from the date of the hearing unless there is good cause to extend the review for a longer period and the prisoner is informed of the reason, (i) affirm the original proposed decision, (ii) order a new hearing, or (iii) modify the proposed decision without a new hearing. No decision shall be modified without a new hearing if the modification would be adverse to the prisoner's or parolee's interest. An order for a new hearing vacates the proposed decision.~~

(e) Review of Decisions from Sexually Violent Predator Probable Cause Hearings. Proposed decisions from probable cause hearings under the Sexually Violent Predator Program shall be implemented immediately by staff from the Department of Mental Health, P&CSD and the board. The decision shall be reviewed by the chief deputy commissioner or a designee. Within 10 days of the hearing, the chief deputy commissioner may: (i) affirm the proposed decision, (ii) order a new hearing, or (iii) modify the decision without a new hearing. No decision shall be modified without a new hearing if the modification would be adverse to the prisoner's interests. If the chief

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deputy commissioner disapproves the decision and orders a new hearing, the prisoner *or patient* shall be notified and, if necessary, the parole agent shall place a hold following the criteria specified in §§ 2600-2602. If the chief deputy commissioner modifies the decision without a new hearing, staff from the Department of Mental Health, P&CSD and the board shall implement the decision immediately. Decisions subject to the subdivision shall be given an effective date not later than 10 days from the hearing, ~~unless expedited under subdivision (jk).~~

(f) Review of ISL Parole ~~and ISL Rescission Hearings~~ *Consideration and Rescission Hearings*. Proposed decisions made at ISL Parole *Consideration and Rescission Hearings* ~~and ISL Rescission Hearings~~ shall be reviewed by the chief counsel or a designee. Within 90 days of the hearing, the chief counsel may: (i) affirm the proposed decision, (ii) order a new hearing, or (iii) modify the proposed decision without a new hearing. No decision shall be modified without a new hearing if the decision would be adverse to the prisoner's interest. In cases where the chief counsel recommends a modification where the decision is adverse to the prisoner's interest, the matter shall be referred to the full board for review. No proposed decision shall be referred for a new hearing without a majority vote of the board following a public hearing. Before the matter is referred to the full board for review, the chief counsel or designee shall consult with the panel members who conducted the hearing. If any new information is received by the chief counsel or a designee that is adverse to a life prisoner, the new information will be forwarded to the prisoner and the prisoner's attorney. The prisoner and the attorney will be afforded an opportunity to respond in writing within a reasonable amount of time to the new information. Any proposed decision of the panel shall become effective final within 120 days of the hearing.

(g) Review of ~~Extended Term~~ *Serious Offender* Hearings. Proposed decisions made at ~~Extended Term~~ *Serious Offender* Hearings shall be reviewed by the chief counsel or a designee. Within 60 days of the hearing, the chief counsel may: (i) affirm the proposed decision, (ii) order a new hearing or (iii) modify the proposed decision without a new hearing. No decision shall be modified without a new hearing if the modification would be adverse to the prisoner's interests. If any new information is received by the chief counsel or a designee that is adverse to ~~a life~~ *the* prisoner, the new information will be forwarded to the prisoner and the prisoner's attorney. The prisoner and the attorney will be afforded an opportunity to respond in writing within a reasonable amount of time to the new information. Decisions subject to this subdivision shall be given an effective date not later than 60 days from the hearing.

(h) Review of Life Prisoner Decisions. Proposed decisions made at hearings for prisoners serving a sentence of life with the possibility of parole shall be reviewed by the chief counsel or a designee. Within ~~90~~ 110 days of the hearing, the chief counsel may: (i) affirm the proposed decision, (ii) order a new hearing, or (iii) modify the proposed decision without a new hearing. No decision shall be modified without a new hearing if the decision would be adverse to the prisoner's interest. If any new information is received by the chief counsel or a designee that is adverse to a life prisoner, the new

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information will be forwarded to the prisoner and the prisoner's attorney. The prisoner and the attorney will be afforded an opportunity to respond in writing within a reasonable amount of time to the new information. In cases where the chief counsel recommends a modification where the decision is adverse to the prisoner's interest, the matter shall be referred to the full board for en banc review. No proposed decision shall be referred for a new hearing without a majority vote of the board following a public hearing. Before the matter is referred to the full board for review, the chief counsel or designee shall consult with the commissioners who conducted the hearing. Any proposed decision of the panel shall become effective final within 120 days of the hearing.

(i) New Hearings. For purposes of this section, a modification of a decision which would be adverse to the prisoner's or parolee's interest is one which would result in the denial of release from custody or require a longer period of confinement.

(j) Waiver of New Hearing. In cases where a new hearing is ordered, the prisoner or parolee is entitled to waive the right to the hearing and accept the modification suggested by the reviewing authority. In cases where the prisoner or parolee was represented by an attorney at the hearing, the prisoner shall be afforded 10 days to consult with counsel prior to the execution of the agreement to the proposed modification and the waiver of right to a hearing. By accepting the modified decision, the prisoner or parolee will also acknowledge in writing that the modified decision may not be appealed.

(k) Expedited Review. Any proposed decision which would result in the immediate release of a prisoner or parolee except one affecting a life prisoner, shall be reviewed, given an effective date, and released no later than ~~ten~~ 10 days from the date of the hearing.

~~—(e) Dissent. (l) Split Vote. Any proposed decision made by a three person panel with one a dissenter shall be reviewed regularly. Any difference of opinion split vote between the two persons on an ISL hearing panel shall be referred to the next immediate ISL panel for another hearing. Any difference of opinion concerning parole revocation decisions shall be referred immediately to the chief deputy commissioner or a designee, by telephone if necessary, for resolution.~~

~~—(g) Reconsideration Panel Composition. The reconsideration panel shall be composed of one deputy commissioner, the chief deputy commissioner (or his designee) and one commissioner.~~

~~(h) Review Committee. The board review committee shall be composed of three commissioners designated by the chairman.~~

Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 1170.2, 3041, 3042, 3060, 3063.5, 3063.6, 5075, and 5076.1, Penal Code.

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**§ 2042. Review Criteria.**

The purpose of the decision review process is to assure complete, accurate, consistent and uniform decisions and the furtherance of public safety. Criteria for disapproval ~~or modification~~ of a decision ~~by the decision review unit, reconsideration panel, or board review committee~~ includes a determination by the board that the panel made an error of law, or that the panel's decision was based on an error of fact, or that new information should be presented to the board, any of which when corrected or considered by the board, has a substantial likelihood of resulting in a substantially different decision upon a rehearing. ~~clerical errors, apparent inconsistency of result from results generally obtained for the same or similar cases, incorrect application of the law (statutes or regulations), a decision not supported by the findings, findings not supported by the evidence on the record, or new information was received which should be presented to the panel—a unique or unusual policy issue posed by the proposed decision.~~ In deciding if a decision should be approved, ~~the decision review unit~~ board staff shall review the information available to the panel that made the decision and any information received as provided in Section § 2028.

Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 1170.2 and 3041(a), Penal Code.

**§ 2043. Effective Final Date of Decisions.**

~~All proposed hearing decisions including those made during Progress Hearings shall be effective 15 days after the date of the hearing, unless the proposed decision is disapproved as provided in Section 2041(d), the case is referred en banc as provided in Section 2044, or a different effective date is stated in the proposed decision. Any proposed decision granting, modifying, or denying a parole date for a life prisoner, whose commitment offense occurred after July 1, 1977, exclusive of those made during Progress Hearings, shall be effective become final no later than 90 120 days after the hearing at which the proposed decision was made, unless the proposed decision states a later effective date, and provided, however, no decision is effective until reviewed by the decision review unit. No Life Prisoner shall be released on parole prior to 60 days from the date of the hearing. Any decision not requiring a hearing is effective immediately, unless the decision states a different effective date.~~

Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Section 3041, Penal Code.

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**§ 2044. En Banc Referral.**

\_\_\_(a) The full board shall review within a maximum of ~~forty-five~~ 60 days from the date of the hearing any proposed decision referred by a member of the hearing panel who requests the full board to consider the case, or from the date of receipt of a request for review by the Governor under the provisions of Penal Code section 3041.1. The case shall be referred to the executive officer or chief deputy commissioner for any preparation which is necessary prior to the meeting.

\_\_\_(b) In reviewing a decision upon the request of the Governor, a vote in favor of parole by a majority of the current board members shall be required to grant parole. If a majority of the board agrees with the decision reached by a majority of the panel, it shall approve the decision. ~~for immediate release.~~

\_\_\_(c) If a majority of the board disagrees with the decision reached by a majority of the panel, the decision is vacated and the matter shall be scheduled for the board shall order a new hearing. The decision from the new hearing shall be the decision in the case subject to ~~section~~ § 2041.

Note: Authority cited: Sections 3052 and 5076.2, Penal Code. Reference: Sections 3041 and 3041.1, Penal Code.